

# TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS

## PCT

### RAPPORT PRÉLIMINAIRE INTERNATIONAL SUR LA BREVETABILITÉ (chapitre I du Traité de coopération en matière de brevets)

(règle 44bis du PCT)

Référence du dossier du déposant ou du mandataire H260360DI5MP	<b>POUR SUITE À DONNER</b>		Voir le point 4 ci-dessous
Demande internationale no. PCT/FR2004/002654	Date du dépôt international ( <i>jour/mois/année</i> ) 18 October 2004 (18.10.2004)	Date de priorité ( <i>jour/mois/année</i> ) 22 October 2003 (22.10.2003)	
Classification internationale des brevets (8 <sup>e</sup> édition, sauf indication d'une #dition ant#rieure) Voir les informations pertinentes dans le formulaire PCT/ISA/237			
Déposant PLASTEF INVESTISSEMENTS			

1. Le présent rapport préliminaire international sur la brevetabilité (chapitre I) est établi par le Bureau international au nom de l'administration chargée de la recherche internationale selon la règle 44bis.1.a).
2. Ce RAPPORT comprend un total de 8 feuilles, y compris la présente feuille de couverture.  Dans les feuilles jointes, toute référence à l'opinion écrite de l'administration chargée de la recherche internationale doit être entendue, à la place, comme une référence au rapport préliminaire international sur la brevetabilité (chapitre I).
3. Le présent rapport contient des indications relatives aux points suivants :
<input checked="" type="checkbox"/> Cadre n° I Base de l'opinion <input type="checkbox"/> Cadre n° II Priorité <input type="checkbox"/> Cadre n° III Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle <input type="checkbox"/> Cadre n° IV Absence d'unité de l'invention <input checked="" type="checkbox"/> Cadre n° V Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration <input type="checkbox"/> Cadre n° VI Certains documents cités <input type="checkbox"/> Cadre n° VII Certaines irrégularités relevées dans la demande internationale <input checked="" type="checkbox"/> Cadre n° VIII Certaines observations relatives à la demande internationale
4. Le Bureau international communiquera le présent rapport aux offices désignés conformément aux règles 44bis.3.c) et 93bis.1 mais pas avant l'expiration du délai de 30 mois à compter de la date de priorité (règle 44bis.2), sauf si le déposant a présenté une requête expresse à cet égard en vertu de l'article 23.2).

Bureau international de l'OMPI 34, chemin des Colombettes 1211 Geneva 20, Switzerland no de télécopieur +41 22 338 82 70	Date d'établissement du présent rapport 27 July 2006 (27.07.2006)
Fonctionnaire autorisé  Athina Nickitas-Etienne e-mail: pt04@wipo.int	

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

**PCT**

Translation

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	<b>See Form PCT/ISA/210 (sheet 2)</b>
		<b>FOR FURTHER ACTION</b>	
		See paragraph 2 below	
Applicant's or agent's file reference	International application No.	International filing date (day/month/year)	Priority date (day/month/year)
<b>H260360DI5MP</b>	<b>PCT/FR2004/002654</b>	<b>18.10.2004</b>	<b>22.10.2003</b>
International Patent Classification (IPC) or both national classification and IPC <b>A61M5/50, A61M5/315, A61M5/32</b>			
Applicant <b>PLASTEF INVESTISSEMENTS</b>			

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
 This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
 a sequence listing  
 table(s) related to the sequence listing
  - b. format of material  
 in written format  
 in computer readable form
  - c. time of filing/furnishing  
 contained in the international application as filed.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. V** **Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	2, 9, 11-14	YES
	Claims	1, 3-8, 10	NO
Inventive step (IS)	Claims		YES
	Claims	1-14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO

**2. Citations and explanations:**

1 Reference is made to the following document:

D1: WO 98/35714 A (RESTELLI, SERGIO; RIGHI, NARDINO) 20 August 1998

2 INDEPENDENT CLAIM 1

2.1 The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claims 1, 3 and 10 does not meet the requirement of novelty defined in PCT Article 33(2). Document D1 describes (see, for example, page 13, line 30 to page 15, line 27, figures 3, 5 and 8) (the references between parentheses apply to this document):

Protected injection device, comprising a syringe with a syringe body (1), a needle (5), and a piston (3) which can be displaced in this body for an injection, and safety means that comprise a protective sleeve (14), the syringe body (1) and the protective sleeve (14) being able to slide relative

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to one another between an injection configuration, in which the needle (5) protrudes from the protective sleeve (14) arranged around the syringe body, and a protection configuration, in which the needle (5) extends within said protective sleeve (14), the device comprising a trigger member (108) for triggering the change from the injection configuration (figure 3 without "protective cap (6)") to the protection configuration (figure 5) at the end of injection, the trigger member (108) being integral with the actuating head (8) of the piston (3), and in that it comprises an inhibitor member (21) able to occupy an inhibition position in which said inhibitor member (21) defines a first end-of-injection position of the piston (3) in which the trigger member (108) is unable to trigger the change from the injection configuration to the protection configuration and to be moved relative to this inhibition position in order to permit a second end-of-injection position of the piston in which the trigger member (108) is able to trigger the change from the injection configuration to the protection configuration, and in that, in its inhibition position, the inhibitor member (21) is connected to the piston (3) and integral with the movement of the latter and is able to cooperate in abutment with an element (7) of the device fixed relative to the syringe body (1) in order to define the first end-of-injection position, in that the inhibitor member (21) is able to be separated from the piston (3) or moved relative to the latter in order to allow the second end-of-

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Box No. V      **Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

injection position to be obtained, and in that, in its inhibition position, the inhibitor member (21) is connected to the actuating head (8) of the piston (3).

Consequently, document D1 discloses all the features of claim 1 and in so doing deprives the latter's subject matter of any novelty, in accordance with PCT Article 33(2).

The same argument applies *mutatis mutandis* to the subject matter of independent claims **3 and 10**.

3.    DEPENDENT CLAIMS **2, 4-9 and 11**

The claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (PCT Article 33(2) and (3)). See for example:

3.1   Novelty

D1, page 13, line 30 - page 51, line 27, figures 3, 5 and 8, for claims 4-8;

3.2   Inventive step

The feature by which *the inhibitor member (34) passes through the head (12B) of the piston (12)* in claims **2, 9 and 11** is merely one of several obvious options that a person skilled in the art seeking to solve the stated problem might select, depending on each particular case, and without an inventive step

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement  being involved.
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4 INDEPENDENT CLAIM 12

4.1 The solution proposed in claim 12 of the present application is not considered to be inventive (PCT Article 33(3)), the reasons being as follows:

The subject matter of independent claim 12 (the trigger member (52) is connected to the piston (12) and is able to be moved relative to the latter between a position permitting triggering ... and a position unable to permit triggering ...) refers to features representing merely one of several obvious options that a person skilled in the art seeking to solve the stated problem (namely that the change of the injection device at the end of injection in its protection configuration is not triggered systematically; see page 1, lines 33-36) might select, depending on each particular case, and without an inventive step being involved.

5 DEPENDENT CLAIMS 13 AND 14

5.1 Dependent claims 13 and 14 do not contain any features which, in combination with the features of any one of the claims to which they refer, meet the requirements of the PCT in respect of inventive step. This is because it would be obvious for a person skilled in the art to provide catch means on the trigger member and the piston in order to define their mutual positions as described in section 4.1 above.

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Box No. VIII    Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Although claims 1, 3, 10 and 12 have been drafted as separate independent claims, it appears that they have the same subject matter and that they differ only by virtue of a variation in the definition of the subject matter for which protection is sought and in the terms used to define their features. Therefore, these claims are not concise and, as such, do not meet the requirements of PCT Article 6.